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December 6, 2023

VIA ECF

Hon. Colleen McMahon
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Sow et al. v. City Of New York et al.
No. 21-cv-00533 (CM)(GWG)

In re: New York City Policing During Summer 2020 Demonstrations
No. 20-cv-8924 (CM) (GWG)

Dear Judge McMahon,

We represent the class in the above captioned matter and we now move to extend the bar date (i.e., the deadline to submit Claims Forms, Opt Outs and objections), in this matter an additional 60 days, and to adjust all subsequent dates thereafter accordingly. This is the first request for an extension of this date. We raised with Defendants that we wanted to seek this extension on November 21, 2023. We provided a copy of this letter to the Defendants on Friday, December 1, 2023, as well as discussed it with them yesterday, December 5, 2023 on a phone conference, and advised them that we needed a response by 5:00 pm today as to whether they would join in the request or take no position on the request. As of 5:00 pm today we have not heard anything from the City on their position. In all candor, we would advise the Court that in our conversation yesterday the City's initial position had been to oppose the request, but we asked them to reconsider by 5:00 pm today.

On July 27, 2023, this Court granted preliminary approval of the proposed class action settlement in this matter. Dkt. No. 176. The settlement in this case resolves claims made by

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Plaintiffs arising out of the “George Floyd protests” in the summer of 2020, at eighteen (18) different locations in New York City from May 28, 2023 to June 4, 2023. Approximately 1,380 individuals meet the class definition as set forth in paragraph 32 of the Amended Stipulation of Settlement and Order approved by this Court on August 23, 2023. Dkt. No. 176. The original Preliminary Approval Order in this case, dated July 27, 2023, allotted 148 days for the claims process.

By way of reference, the settlement class in *Sierra/Wood v. City of New York*, 20 Civ 10291, a case that also involved claims arising out of the “George Floyd protests” in the summer of 2020, involved only one location and identified only 394 potential class members, of which 137 were excluded because they had previously filed or settled their claims prior to the proposed settlement in that case. See, *Sierra/Wood*, Dkt. No 188, p. 2. Although the scope of the *Sierra/Wood* case was much smaller, the Plaintiffs in *Sierra/Wood* were given 180 days to notify a much smaller class of potential class members prior to the Bar Date. *Sierra/Wood*, Dkt. No. 171, p. 3-4. The Bar Date in *Sierra/Wood* was then extended by an additional 30 days, allowing for a notification period of 210 days. Dkt. 181, Exhibit 1.

Since the preliminary approval order was granted by the Court in this case the parties have labored diligently with counsel for the Defendants, and with the claims administrator, to notify prospective class members and to process claims made for eligibility for membership in the settlement class. This process has been hampered by the fact that the identity of several hundred of the potential class members in this case were unknown at the beginning of the notification process which has required class counsel to make extraordinary efforts to identify and notify them of their possible inclusion in the class. As of December 4th, 622 members of the class, for a return rate to date of approximately 51% of the class of 1,213 known members, have filed claims. This return rate, even without the additional time requested to notify other potential class members, is still a significantly large return rate for class actions. See, e.g., *Hernandez v. Immortal Rise, Inc.*, 306 F.R.D. 91, 100 (E.D.N.Y. 2015) (noting that a 20% participation rate “is well above average in class action settlements). However, we believe that, with additional time, class counsel will be able to identify and notify potential members of the class who have not yet filed a claim. This includes the approximately 167 people who meet the class definition and who we have not yet identified.

Accordingly, class counsel seeks an order from this Court extending the Bar Date in this case 60 days to February 20, 2024, and to modify all subsequent dates in accordance with this requested extension.

Respectfully submitted,

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By: 

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